IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

WEDNESDAY, THE TWENTY SECOND DAY OF SEPTEMBER
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE DR JUSTICE G.YETHIRAJULU

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WRIT PETITION NO : 15936 of 2004

Between:

B.Jeevan Kumar, S/o. B.S.Paul, aged about 54 years,
Assistant Grade I (Depot), Office of the District Manager,

Food Corporation of India, Tarnaka, Hyderabad.

..... PETITIONER

AND

1. The Food Corporation of India, rep.by its Regional Manager, HACA Bhawan, Nampalli, Hyderabad.
2. Food Corporation of India, District Office-Warangal, Warangal rep.by its District Manager.
3. Food Corporation of India, District Office-Tarnaka, Hyderabad rep.by its District Manager.

.....RESPONDENTS

Petition under Article 226 of the Constitution of India praying that in the circumstances stated in the affidavit filed herein the High Court may be pleased to issue an order, direction or writ particularly one in the nature of Writ of Mandamus or any other appropriate Writ (i) declaring the memorandum of charge No.VIG.4(7)/2003 dated 31-10-2003 including the final orders vide order No.VIG.4(7)/2003 dated 30-4-2004 is illegal, arbitrary and violative of principles of natural justice and contrary to Regulation 54, read with Regulation 60 of the F.C.I.

Staff Regulations, 1971.

Counsel for the Petitioner: MR.G.VIDYASAGAR

Counsel for the Respondent Nos.1 to 3: MR.B.ANJANEYULU, Standing Counsel for F.C.I.

The Court at the stage of admission made the following :

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THE HONOURABLE DR. JUSTICE G.YETHIRAJULU

Writ Petition No.15936 of 2004

ORDER:

The petitioner worked as an Assistant Grade-I (Depot) at the Food Storage Depot, at Kazipet. He was entrusted with the work of loading of food grains into the Railway wagons. Charge memos were issued to him alleging that there was short fall of food grains and final orders were passed imposing a penalty of recovery of Rs.57,150/-. The petitioner is contending that no departmental enquiry has been conducted and no opportunity was given to him except receiving his explanation. He further contends that there was total non-application of the mind, therefore, the order is liable to be set aside. The petitioner, therefore, approached this Court through this writ petition seeking to declare that the order of the second respondent as illegal, arbitrary and in violation of principles of natural justice.

2. The learned Standing Counsel for the respondents submitted that against the impugned order of the second respondent, a statutory appeal has been provided and without exhausting the same, the petitioner has directly approached this court, therefore, the writ petition cannot be maintained. He also stated that the petitioner is at liberty to prefer an appeal within 45 days from the receipt of a copy of the impugned order.

3. In the light of the submissions made by the learned Standing Counsel for the respondents, the writ petition cannot be maintained at this stage. However, in the light of the circumstances explained by the petitioner, liberty is given to him to prefer an appeal before the competent authority within the prescribed time and get

appropriate orders. Meanwhile, the recovery of the amount shall be kept in abeyance. The time taken by the petitioner for preferring this writ petition shall be excluded for the purpose of computing the period of limitation to prefer an appeal before the competent authority.

The writ petition is accordingly disposed of. No order as to costs.

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Dr.G.YETHIRAJULU, J

Dated: 22nd September, 2004.

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ASSISTANT REGISTRAR

//TRUE COPY//

SECTION OFFICER

To

1. The Regional Manager, The Food Corporation of India, H.A.C.A. Bhavan, Nampalli, Hyderabad.
2. The District Manager, Food Corporation of India, District Office-Warangal, Warangal.
3. The District Manager, Food Corporation of India, District Office-Tarnaka, Hyderabad.
4. Two C.D. copies.